THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17721 of 1995

Dated 17-03-2006

Between:

M.Rama Murthy.

..... PETITIONER

AND

The Superintending Engineer (Operation)

APSEB, Kurnool & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION No.17721 of 1995

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O R D E R:

Questioning the proceedings of the second respondent dated 01-08-1994, in promoting the fourth respondent, junior to the petitioner, as load surveyor, the present writ petition is filed and a consequential direction is sought that the petitioner be promoted as load surveyor from 01-08-1994 and that he be granted all consequential benefits.

It would suffice to note that while the petitioner was appointed as lineman on 20-09-1984, the fourth respondent was promoted to the said post on 08-08-1987, and while the petitioner was shown at Sl. No.41 in the seniority list of lineman, the fourth respondent was shown at Sl.No.47. For promotion to the next higher post of

load surveyor, the respondent-Corporation issued circular dated 03-05-1994 calling upon individual linemen to exercise their options. On the ground that among all the lineman only two lineman, one of whom was the fourth respondent herein, had exercised their options within the time limit prescribed i.e. 20-05-1994, the fourth respondent was promoted as load surveyor on 01-08-1994. The petitioner exercised his option on 20-08-1994. The second respondent, vide proceedings dated 31-07-1995, rejected the request of the petitioner on the ground that he had exercised his option belatedly. In his affidavit, filed in support of the writ petition, the petitioner specifically pleads that he was not aware of options being called and that the third respondent had never communicated any such letter calling for his willingness.

In the counter affidavit, it is stated that the memo dated 03-05-1994 was displayed in the notice board and there was no deliberate effort to keep the petitioner away from exercising his option.

It is therefore necessary to examine the contents of the circular dated 03-05-1994, which reads as under:

> "All Assistant Divisional Engineers, are requested to obtain the declaration letters from all the linemen under their control, whether they are willing to take promotion as load surveyor or otherwise. The above willingness letters may please be arranged to be submit to this office before 20-05-1994. Late applications i.e., after 20-05-1994 will not be considered for promotions."

It is clear therefrom that all Assistant Divisional Engineers were asked to obtain declaration letters from all the linemen under their control, whether they were willing to take promotion as load surveyor or otherwise. The stipulation in the circular was that declaration letters had to be obtained from all the linemen and each such declaration letter was to clearly provide as to whether such linemen were willing to take promotion of load surveyor or not. Thus, even among those who were not willing to be promoted as load surveyor, the circular dated 03-05-1994 required that declaration letters be obtained. The third respondent was therefore required, under the circular dated 03-04-1994, to intimate each of the linemen and obtain declaration letters from them as to whether or not they were willing to take promotion to the post of load surveyor. Admittedly, no such individual declarations were sought for. Sri C.B Rammohan Reddy, learned counsel for the petitioner, would point out that as against 107 linemen in that particular division, only two linemen had

exercised their option. This by itself shows that none of the linemen were made aware of the existence of the circular.

In any event, the requirements of the circular dated 03-05-1994 is to obtain declaration letters from all the linemen whether or not they were willing to accept promotion as load surveyor and such declaration letters could only have been obtained by intimating each of the linemen individually asking them to furnish declaration letters. Putting the circular in the notice board was not sufficient compliance and since the respondents did not call upon the petitioner, in writing, to submit his declaration form, expressing his willingness or otherwise to take up promotion to the post of load surveyor, the petitioner's exercise of option on 20-08-1994 cannot be said to be belated. The respondents shall consider the option exercised by the petitioner on 20-08-1994, as an option exercised within time, and take necessary action thereupon in accordance with law.

The writ petition is accordingly disposed of. However in the circumstances without costs.

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18-03-2006

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